

June 1-2, 2012

DRAFT MEETING MINUTES

Friday June 1, 2012

8:00 a.m. ROLL CALL

Members Present:

Jason J. Rosenberg, M.D., Chairman
Z.P. Zachariah, M.D., Vice- Chairman
Nabil El Sanadi, M.D., 1st Vice-Chairman
Elisabeth Tucker, M.D.
Merle P. Stringer, M.D.
Magdalena Averhoff, M.D.
Robert Nuss, M.D.
James Orr, M.D.
Gary Winchester, M.D.
Bradley Levine, Consumer Member
George Thomas, M.D.

Staff Present:

Joy A. Tootle, JD, Executive Director
Ed Tellechea, Esq, Board Counsel
Donna McNulty, Esq, Board Counsel
Nancy Murphy, Paralegal
Crystal Sanford, CPM, Program Operations Administrator
Chandra Prine, Program Operations Administrator
Rebecca Hewett, Administrative Assistant I
Shaila Washington, Compliance Officer
Jessica Hammonds, Public Information Officer
Ashley Carr, Public Information Officer

Prosecuting Attorneys Present:

Veronica Donnelly, Esq.
Diane Kiesling, Esq.
Yolonda Green, Esq.
Sharmin Hibbert, Esq.
Robert Milne, Esq.
Carl Gregg, Esq.

Members Absent:

Fred Bearison, M.D.
Onelia Lage, M.D.
Donald Mullins, Consumer Member
Brigitte Goersch, Consumer Member

Others Present:

American Court Reporting

Judy Rivenbark, M.D., Director
Practitioners Resource Network

June 1-2, 2012

DRAFT MEETING MINUTES

Disciplinary Case Schedule:

Scott Adam Boden, M.D., West Hartford, CT – Settlement Agreement4

Case #2010-09763

Dr. El Sanadi was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(b), FS (2009) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license and s. 458.331(1)(kk), FS (2009) – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

Case #2011-15149

No present members were recused due to participation on the probable cause panel.

Allegations of the Amended Administrative Complaint: Violation of s. 458.331(1)(b), FS (2011) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

Penalty imposed: letter of concern, \$2,500 fine, costs, Laws and Rules course, 5 hours CME in risk management

Winston Ebilane Evalle, M.D., Wildwood, FL – Settlement Agreement.....5

Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2005) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical

June 1-2, 2012

DRAFT MEETING MINUTES

malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify. and s. 458.331(1)(m), FS (2005) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

Penalty imposed: letter of concern, \$5,000 fine, costs, FMA records course, 5 hours CME in risk management

Gustavo Serrano, M.D., Tampa, FL – Settlement Agreement6

Dr. Orr and Mr. Levine were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2007-2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine

June 1-2, 2012

DRAFT MEETING MINUTES

1 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
2 law judge or a final order of the board finding a violation under this paragraph shall specify
3 whether the licensee was found to have committed “gross medical malpractice,” “repeated
4 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
5 by the board must so specify and s. 458.331(1)(g), FS (2007-2009) – Failing to perform any
6 statutory or legal obligation placed upon a licensed physician.

7
8 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

9
10 **Penalty imposed:** letter of concern, \$10,000 fine, costs, Laws and Rules course, FMA records
11 course, 5 hours CME in risk management

12
13 **Gloria Elaine McNeil, M.D., Fort Pierce, FL – Settlement Agreement8**

14 Mr. Mullins was recused due to participation on the probable cause panel.

15
16 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2007-2008) –
17 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
18 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
19 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
20 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
21 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
22 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be
23 licensed by this state to provide health care services as a medical doctor in this state. Nothing in
24 this paragraph shall be construed to require that a physician be incompetent to practice medicine
25 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
26 law judge or a final order of the board finding a violation under this paragraph shall specify
27 whether the licensee was found to have committed “gross medical malpractice,” “repeated
28 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
29 by the board must so specify and s. 458.331(1)(m), FS (2007-2008) – Failing to keep legible, as
30 defined by department rule in consultation with the board, medical records that identify the
31 licensed physician or the physician extender and supervising physician by name and professional
32 title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic
33 or treatment procedure and that justify the course of treatment of the patient, including, but not
34 limited to, patient histories; examination results; test results; records of drugs prescribed,
35 dispensed, or administered; and reports of consultations and hospitalizations.

Peabody Orlando
9801 International Drive
Orlando, FL 32819
(407) 352-4000

June 1-2, 2012

DRAFT MEETING MINUTES

1 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

2
3 **Penalty imposed:** letter of concern, \$2,500 fine, costs, FMA records course, 5 hours CME in
4 risk management

5
6 **Daniel Kesden, M.D., Lauderdale Lakes, FL – Settlement Agreement18**

7 Dr. J. Rosenberg and Mr. Mullins were recused due to participation on the probable cause panel.

8
9 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2007) –
10 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
11 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
12 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
13 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
14 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
15 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be
16 licensed by this state to provide health care services as a medical doctor in this state. Nothing in
17 this paragraph shall be construed to require that a physician be incompetent to practice medicine
18 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
19 law judge or a final order of the board finding a violation under this paragraph shall specify
20 whether the licensee was found to have committed “gross medical malpractice,” “repeated
21 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
22 by the board must so specify and s. 458.331(1)(m), FS (2007) – Failing to keep legible, as
23 defined by department rule in consultation with the board, medical records that identify the
24 licensed physician or the physician extender and supervising physician by name and professional
25 title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic
26 or treatment procedure and that justify the course of treatment of the patient, including, but not
27 limited to, patient histories; examination results; test results; records of drugs prescribed,
28 dispensed, or administered; and reports of consultations and hospitalizations.

29
30 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

31
32 **Penalty imposed:** letter of concern, \$7,000 fine, costs, FMA records course, 5 hours CME in
33 risk management

34
35 **John Buckley Canalizo, M.D., Daytona Beach, FL – Settlement Agreement19**

36 Dr. Orr and Mr. Levine were recused due to participation on the probable cause panel.

June 1-2, 2012

DRAFT MEETING MINUTES

1
2 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006) –
3 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
4 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
5 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
6 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
7 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
8 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be
9 licensed by this state to provide health care services as a medical doctor in this state. Nothing in
10 this paragraph shall be construed to require that a physician be incompetent to practice medicine
11 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
12 law judge or a final order of the board finding a violation under this paragraph shall specify
13 whether the licensee was found to have committed “gross medical malpractice,” “repeated
14 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
15 by the board must so specify.

16
17 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

18
19 **Penalty imposed:** letter of concern, \$7,500 fine, costs, 5 hours CME in risk management, 5
20 hours CME in diagnosis and treatment of cardiac conditions

21
22 **Vivian M. Habib, M.D., Pearland, TX – Settlement Agreement.....55**

23 No present members were recused due to participation on the probable cause panel.

24
25 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(b), FS (2011) – Having
26 a license or the authority to practice medicine revoked, suspended, or otherwise acted against,
27 including the denial of licensure, by the licensing authority of any jurisdiction, including its
28 agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of
29 a license, stipulation, consent order, or other settlement, offered in response to or in anticipation
30 of the filing of administrative charges against the physician’s license, shall be construed as action
31 against the physician’s license and s. 458.331(1)(kk), FS (2011) – Failing to report to the board,
32 in writing, within 30 days if action as defined in paragraph (b) has been taken against one’s
33 license to practice medicine in another state, territory, or country.

34
35 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

June 1-2, 2012

DRAFT MEETING MINUTES

1 **Penalty imposed:** letter of concern, \$1,500 fine, costs, Laws and Rules course

2
3 **Michael Medved, P.A., Jacksonville, FL – Settlement Agreement.....66**

4 Dr. Orr was recused due to participation on the probable cause panel.

5
6 Allegations of the Administrative Complaint: Violation of s.458.331(1)(r), Prescribing,
7 dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter
8 893 by the physician to himself or herself, except one prescribed, dispensed, or administered to
9 the physician by another practitioner authorized to prescribe, dispense, or administer medicinal
10 drugs; s. 458.331(1)(k), Making deceptive, untrue, or fraudulent representations in or related to
11 the practice of medicine or employing a trick or scheme in the practice of medicine; and s.
12 458.331(1)(g), Failing to perform any statutory or legal obligation placed upon a licensed
13 physician.

14
15 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

16
17 **Penalty imposed:** reprimand, \$3,500 fine, costs, Laws and Rules course, UF drug course

18
19 **Derek David Muehrcke, M.D., Jacksonville, FL – Settlement Agreement.....1**

20 Dr. Muehrcke was present and represented by John R. Saalfeld, Esquire.

21
22 Dr. Zachariah was recused due to participation on the probable cause panel.

23
24 Mr. Milne represented the Department and presented the case to the Board. Allegations of the
25 Administrative Complaint: Violation of s. 456.072(1)(bb), FS (2006) – Performing or attempting
26 to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure,
27 or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated
28 to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or
29 attempting to perform health care services includes the preparation of the patient and s.
30 458.331(1)(nn), FS (2006) – Violating any provision of this chapter or chapter 456, or any rules
31 adopted pursuant thereto.

32
33 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

June 1-2, 2012

DRAFT MEETING MINUTES

1 A motion was made and seconded to offer a counter proposal to include the same terms as the
2 original agreement, but to increase the fine to \$20,000 and to require five hours CME in risk
3 management.

4
5 An amendment was offered to lower the fine. The amendment was rejected.

6
7 The motion carried with two opposed.

8
9 The Respondent took seven days to reject or accept the counter offer.

10
11 **Action taken:** Settlement Agreement rejected; counter offered to impose a letter of concern,
12 \$20,000 fine, costs, lecture, 5 hours CME in risk management

13
14 **John Peter Christensen, M.D., West Palm Beach, FL – Recommended Order2**

15 Dr. Christensen was not present but he was represented by Allan A. Hoffman, Esquire.

16
17 Dr. Zachariah and Mr. Levine were recused due to participation on the probable cause panel. Dr.
18 Rosenberg confirmed all participating members read the complete record.

19
20 Mr. Milne represented the Department and presented the case to the Board. Allegations of the
21 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2009-2010) – Notwithstanding s.
22 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.
23 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this
24 paragraph. Medical malpractice shall not be construed to require more than one instance, event,
25 or act. 2. Committing gross medical malpractice.
26 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board
27 to have committed repeated medical malpractice based on s. 456.50 may not be licensed or
28 continue to be licensed by this state to provide health care services as a medical doctor in this
29 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to
30 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by
31 an administrative law judge or a final order of the board finding a violation under this paragraph
32 shall specify whether the licensee was found to have committed “gross medical malpractice,”
33 “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any
34 publication by the board must so specify; s. 458.331(1)(q), FS (2009-2010) – Prescribing,
35 dispensing, administering, mixing, or otherwise preparing a legend drug, including any
36 controlled substance, other than in the course of the physician’s professional practice. For the

June 1-2, 2012

DRAFT MEETING MINUTES

1 purposes of this paragraph, it shall be legally presumed that prescribing, dispensing,
2 administering, mixing, or otherwise preparing legend drugs, including all controlled substances,
3 inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient
4 and is not in the course of the physician's professional practice, without regard to his or her
5 intent; s. 458.331(1)(nn), FS (2009-2010) – Violating any provision of this chapter or chapter
6 456, or any rules adopted pursuant thereto; s. 458.331(1)(m), FS (2009-2010) – Failing to keep
7 legible, as defined by department rule in consultation with the board, medical records that
8 identify the licensed physician or the physician extender and supervising physician by name and
9 professional title who is or are responsible for rendering, ordering, supervising, or billing for
10 each diagnostic or treatment procedure and that justify the course of treatment of the patient,
11 including, but not limited to, patient histories; examination results; test results; records of drugs
12 prescribed, dispensed, or administered; and reports of consultations and hospitalizations and s.
13 458.331(1)(k), FS (2009-2010) – Making deceptive, untrue, or fraudulent representations in or
14 related to the practice of medicine or employing a trick or scheme in the practice of medicine.

15
16 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

17
18 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law as
19 amended by deleting everything from paragraph 42 of the Recommended Order except for the
20 last sentence all the way through paragraph 47 except for the last sentence thereby dismissing
21 counters I and III.

22
23 A motion was made, seconded and carried unanimously to adopt the Recommended Order.

24
25 A motion was made, seconded and carried unanimously to waive the costs.

26
27 **Penalty imposed:** dismiss counts I and III [(t), (nn); find guilty on (m), (q) and (k); revocation,
28 \$20,000 fine; costs waived

29
30 **Michael Lee Rothberg, M.D., Clearwater, FL – Settlement Agreement39**

31 Dr. Rothberg was present and represented by Randolph Collette, Esquire.

32
33 No present members were recused due to serving on the probable cause panel.

34
35 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
36 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2003) – Gross or repeated

June 1-2, 2012

DRAFT MEETING MINUTES

1 malpractice or the failure to practice medicine with that level of care, skill, and treatment which
2 is recognized by a reasonably prudent similar physician as being acceptable under similar
3 conditions and circumstances.

4
5 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

6
7 A motion was made and seconded to dismiss the Administrative Complaint.

8
9 The Respondent agreed to waive attorney fees and costs in this case.

10
11 The motion carried unanimously.

12
13 **Action taken:** Administrative Complaint dismissed

14
15 **John Joseph Papavasiliou, M.D., Saint Johns, FL – Settlement Agreement7**

16 Dr. Papavasiliou was present and represented by Gregory Chaires, Esquire. The complainant
17 was also present and addressed the Board.

18
19 Mr. Levine was recused due to participation on the probable cause panel.

20
21 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
22 Administrative Complaint: Violation of s. 458.331(1)(m), FS (2008) – Failing to keep legible, as
23 defined by department rule in consultation with the board, medical records that identify the
24 licensed physician or the physician extender and supervising physician by name and professional
25 title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic
26 or treatment procedure and that justify the course of treatment of the patient, including, but not
27 limited to, patient histories; examination results; test results; records of drugs prescribed,
28 dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(dd),
29 FS (2008) – Failing to supervise adequately the activities of those physician assistants,
30 paramedics, emergency medical technicians, advanced registered nurse practitioners, or
31 anesthesiologist assistants acting under the supervision of the physician and s. 458.331(1)(t), FS
32 (2008) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
33 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
34 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
35 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
36 repeated medical malpractice as defined in s. 456.50. A person found by the board to have

June 1-2, 2012

DRAFT MEETING MINUTES

1 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be
2 licensed by this state to provide health care services as a medical doctor in this state. Nothing in
3 this paragraph shall be construed to require that a physician be incompetent to practice medicine
4 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
5 law judge or a final order of the board finding a violation under this paragraph shall specify
6 whether the licensee was found to have committed "gross medical malpractice," "repeated
7 medical malpractice," or "medical malpractice," or any combination thereof, and any publication
8 by the board must so specify.
9

10 The Board asked Prosecution Services to ensure a companion case was filed against the EMT
11 and the ARNP in this case.
12

13 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.
14

15 A motion was made and seconded to impose the same terms in the original agreement but to also
16 include a risk management assessment. This amendment was accepted.
17

18 Another amendment was offered to remove the risk management assessment and this amendment
19 was rejected.
20

21 A motion was made and seconded to remove the risk management assessment. The motion
22 passed 7-2.
23

24 The counter motion, including the risk management assessment, failed 5-5.
25

26 The Respondent agreed to waive attorney fees and costs.
27

28 A motion was made and seconded to dismiss the complaint. This motion also failed 5-5.
29

30 A motion was made and seconded to accept the original Settlement Agreement unmodified. This
31 motion also failed 5-5.
32

33 A motion was made and seconded to impose a letter of concern and a \$1,000 fine. This motion
34 failed 2-8.
35

36 Another motion was made, seconded and carried 6-4 to dismiss the complaint.

June 1-2, 2012

DRAFT MEETING MINUTES

1
2 **Action taken:** Administrative Complaint dismissed
3

4 Dr. Rosenberg introduced Lucy Gee, Director of Medical Quality Assurance and Jennifer
5 Tsetter, Department of Health General Counsel who was present in the audience.
6

7 **William Todd Overcash, M.D., Ocklawaha, FL – Settlement Agreement9**

8 Dr. Overcash was present and represented by Richard H. Levenstein, Esquire.
9

10 **Case #2008-16618**

11 Dr. Zachariah was recused due to participation on the probable cause panel.
12

13 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2007) -
14 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
15 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
16 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
17 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
18 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
19 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be
20 licensed by this state to provide health care services as a medical doctor in this state. Nothing in
21 this paragraph shall be construed to require that a physician be incompetent to practice medicine
22 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
23 law judge or a final order of the board finding a violation under this paragraph shall specify
24 whether the licensee was found to have committed “gross medical malpractice,” “repeated
25 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
26 by the board must so specify.
27
28

29 **Case #2008-16629**

30 Dr. Zachariah was recused due to participation on the probable cause panel.
31

32 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2007) -
33 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
34 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
35 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
36 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing

June 1-2, 2012

DRAFT MEETING MINUTES

1 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
2 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be
3 licensed by this state to provide health care services as a medical doctor in this state. Nothing in
4 this paragraph shall be construed to require that a physician be incompetent to practice medicine
5 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
6 law judge or a final order of the board finding a violation under this paragraph shall specify
7 whether the licensee was found to have committed “gross medical malpractice,” “repeated
8 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
9 by the board must so specify.

10
11 This matter was tabled to allow the prosecutor and the Respondent to work out the criteria for the
12 Respondent’s practice plan.

13
14 **Todd Louis Samuels, M.D., Westlake Village, CA – Settlement Agreement11**

15 Dr. Samuels was present and represented by Holly B. Platter, Esquire.

16
17 Dr. Tucker and Mr. Levine were recused due to participation on the probable cause panel.

18
19 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
20 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2010) – Notwithstanding s.
21 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.
22 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this
23 paragraph. Medical malpractice shall not be construed to require more than one instance, event,
24 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as
25 defined in s. 456.50. A person found by the board to have committed repeated medical
26 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to
27 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
28 construed to require that a physician be incompetent to practice medicine in order to be
29 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a
30 final order of the board finding a violation under this paragraph shall specify whether the
31 licensee was found to have committed “gross medical malpractice,” “repeated medical
32 malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the
33 board must so specify.

34
35 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.
36

June 1-2, 2012

DRAFT MEETING MINUTES

1 **Penalty imposed:** letter of concern, \$5,000 fine, costs, Laws and Rules course, 5 hours CME in
2 risk management
3

4 **Revisit William Todd Overcash, M.D., Ocklawaha, FL – Settlement Agreement9**

5 The Respondent and the prosecutor determined the following criteria for approval of his practice
6 plan:

- 7 1. Physician is capable of performing bariatric surgery.
8 2. Facility that has geriatrics and allows the physician to do bariatrics.
9 3. He is current on CESAP CME's.

10
11 A motion was made, seconded and carried unanimously to accept the Settlement Agreement as
12 amended.
13

14 **Penalty imposed:** letter of concern, \$5,000 fine, costs, restricted from practicing bariatric
15 surgery until he has appeared before the Probation Committee and received approval, this
16 includes submission of a practice plan meeting the criteria set forth above and the Board retained
17 jurisdiction to impose additional terms
18

19 **Maziar Omid, M.D., Los Angeles, CA – Hearing Not Involving Disputed Issues of Material**
20 **Fact.....12**

21 Dr. Omid was not present but he was represented by Christopher Hixon, Esquire.
22

23 No current members were recused due to participation on the probable cause panel.
24

25 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
26 Administrative Complaint: Violation of s. 458.331(1)(b), FS (2008) – Having a license or the
27 authority to practice medicine revoked, suspended, or otherwise acted against, including the
28 denial of licensure, by the licensing authority of any jurisdiction, including its agencies or
29 subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,
30 stipulation, consent order, or other settlement, offered in response to or in anticipation of the
31 filing of administrative charges against the physician's license, shall be construed as action
32 against the physician's license and s. 458.331(1)(kk), FS (2008) – Failing to report to the board,
33 in writing, within 30 days if action as defined in paragraph (b) has been taken against one's
34 license to practice medicine in another state, territory, or country.
35

36 A motion was made, seconded and carried unanimously to dismiss the (kk) violation.

June 1-2, 2012

DRAFT MEETING MINUTES

1
2 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

3
4 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

5
6 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
7 statutes as charged in the Administrative Complaint.

8
9 The Respondent's attorney raised no objections to the costs.

10
11 A motion was made, seconded and carried unanimously to impose a letter of concern and \$1,000
12 fine.

13
14 A motion was made, seconded and carried unanimously to assess costs in the amount of
15 \$2,460.41.

16
17 **Penalty imposed:** letter of concern, \$1,000 fine, costs

18
19 **Donald B. Bletz, M.D., Boca Raton, FL –Settlement Agreement.....13**

20 Dr. Bletz was present and represented by Sean Ellsworth and Randolph Collette, Esquires.

21
22 Dr. Orr and Mr. Mullins were recused due to participation on the probable cause panel.

23
24 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
25 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2010-2011) - Notwithstanding s.
26 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.
27 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this
28 paragraph. Medical malpractice shall not be construed to require more than one instance, event,
29 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as
30 defined in s. 456.50. A person found by the board to have committed repeated medical
31 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to
32 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
33 construed to require that a physician be incompetent to practice medicine in order to be
34 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a
35 final order of the board finding a violation under this paragraph shall specify whether the
36 licensee was found to have committed "gross medical malpractice," "repeated medical

June 1-2, 2012

DRAFT MEETING MINUTES

malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m), FS (2010-2011) - Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(nn), FS (2010-2011) - Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; s. 458.331(1)(gg), FS (2010-2011) – Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure; and s. 458.331(1)(q), FS (2010-2011) - Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician’s professional practice, without regard to his or her intent.

A motion was made, seconded and carried unanimously to drop the (q) charge.

A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

A motion was made, seconded and carried unanimously to impose the same terms in the original agreement but to increase the fine to \$40,000.

The Respondent took seven days to accept or reject the counter offer.

Action taken: Settlement Agreement rejected; counter to impose reprimand, \$40,000 fine, costs, 10 hours CME in appropriate prescribing of controlled substances, restrictions: 1) permanently restricted from practicing in, owning or operating a pain-management clinic; 2) perm restricted from prescribing Schedule II and III, controlled substances; (q) violation dismissed

Jay C. Franklin, M.D., Miami, FL – Settlement Agreement14

Dr. Franklin was present and represented by Mark Dresnick, Esquire.

June 1-2, 2012

DRAFT MEETING MINUTES

1 Mr. Levine was recused due to participation on the probable cause panel.

2
3 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
4 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2007-2009) – Notwithstanding s.
5 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.
6 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this
7 paragraph. Medical malpractice shall not be construed to require more than one instance, event,
8 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as
9 defined in s. 456.50. A person found by the board to have committed repeated medical
10 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to
11 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
12 construed to require that a physician be incompetent to practice medicine in order to be
13 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a
14 final order of the board finding a violation under this paragraph shall specify whether the
15 licensee was found to have committed “gross medical malpractice,” “repeated medical
16 malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the
17 board must so specify; s. 458.331(1)(nn), FS (2007-2009) – Violating any provision of this
18 chapter or chapter 456, or any rules adopted pursuant thereto; and s. 458.331(1)(m), FS 92007-
19 2009) – Failing to keep legible, as defined by department rule in consultation with the board,
20 medical records that identify the licensed physician or the physician extender and supervising
21 physician by name and professional title who is or are responsible for rendering, ordering,
22 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
23 treatment of the patient, including, but not limited to, patient histories; examination results; test
24 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
25 hospitalizations.

26
27 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

28
29 A motion was made, seconded and carried unanimously to impose the same terms but to increase
30 the fine to \$30,000.

31
32 The Respondent took seven days to accept or reject the counter offer.

33
34 **Action taken:** Settlement Agreement rejected; counter to impose a reprimand, \$30,000 fine,
35 costs, Laws and Rules course, UF drug course, FMA records course, restriction: permanent

June 1-2, 2012

DRAFT MEETING MINUTES

1 restriction from prescribing any controlled substance except drugs approved by FDA to treat
2 ADD and ADHD
3

4 **William Robert Crumbley, M.D., Tampa, FL – Settlement Agreement15**

5 Dr. Crumbley withdrew from his Settlement Agreement prior to the meeting.
6

7 **Nicholas Charles Caro, M.D., Chicago, IL – Settlement Agreement16**

8 Dr. Caro was present but not represented by counsel.
9

10 No present members were recused due to participation on the probable cause panel.
11

12 Mr. Milne represented the Department and presented the case to the Board. Allegations of the
13 Administrative Complaint: Violation of s. 458.331(1)(b), FS (2009) – Having a license or the
14 authority to practice medicine revoked, suspended, or otherwise acted against, including the
15 denial of licensure, by the licensing authority of any jurisdiction, including its agencies or
16 subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,
17 stipulation, consent order, or other settlement, offered in response to or in anticipation of the
18 filing of administrative charges against the physician's license, shall be construed as action
19 against the physician's license and s. 458.331(1)(kk), FS (2009) – Failing to report to the board,
20 in writing, within 30 days if action as defined in paragraph (b) has been taken against one's
21 license to practice medicine in another state, territory, or country.
22

23 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.
24

25 A motion was made and seconded to offer a counter proposal to impose a letter of concern,
26 \$1,000 fine, and the Laws and Rules course.
27

28 An amendment was offered to suspend the license until his Illinois license is clear and reserve
29 jurisdiction to impose additional terms at that time. This amendment was accepted.
30

31 An amendment was offered to drop the suspension and replace with language that says if he
32 returns to practice in Florida, the Board reserves jurisdiction to impose additional terms. This
33 amendment was accepted.
34

35 The Respondent took seven days to accept or reject the counter offer.
36

June 1-2, 2012

DRAFT MEETING MINUTES

Action taken: letter of concern, \$3,000 fine, costs, Laws and Rules course, suspension until his Illinois license is clear, jurisdiction is retained to impose additional terms if he returns to Florida to practice

Carl Z. Salzman, M.D., Pembroke Pines, FL – Settlement Agreement17

This hearing was continued until the next Board Meeting.

Kevin Louis Boyer, M.D., Bradenton, FL – Settlement Agreement20

Dr. Boyer was present and represented by Troy J. Cotts, Esquire.

Dr. Zachariah was recused due to participation on the probable cause panel. Dr. Thomas recused himself because he knows the physician.

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2007) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify and s. 458.331(1)(m), FS (2007) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

A motion was made, seconded and carried with two opposed to reject the Settlement Agreement.

June 1-2, 2012

DRAFT MEETING MINUTES

1
2 A motion was made, seconded and carried with two opposed to offer the same agreement but to
3 increase the fine to \$20,000.

4
5 The Respondent took seven days to accept or reject the counter offer.

6
7 **Action taken:** Settlement Agreement rejected; counter offer to impose letter of concern, \$20,000
8 fine, costs, FMA records course, 5 hours CME in risk management

9
10 **Narciso A. Rodriguez-Cayro, M.D., Winter Haven, FL – Settlement Agreement21**

11 Dr. Rodriguez-Cayro was present but not represented by counsel.

12
13 No present members were recused due to participation on the probable cause panel.

14
15 Ms. Green represented the Department and presented the case to the Board. Allegations of the
16 Administrative Complaint: Violation of s. 458.331(1)(b), FS (2011) – Having a license or the
17 authority to practice medicine revoked, suspended, or otherwise acted against, including the
18 denial of licensure, by the licensing authority of any jurisdiction, including its agencies or
19 subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,
20 stipulation, consent order, or other settlement, offered in response to or in anticipation of the
21 filing of administrative charges against the physician's license, shall be construed as action
22 against the physician's license.

23
24 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

25
26 **Penalty imposed:** letter of concern, \$1,500 fine, costs, Laws and Rules course

27
28 **Florence J. Heimberg, M.D., Bradenton, FL – Settlement Agreement23**

29 Dr. Heimberg was present and represented by Christy Carpenter and Troy Cotts, Esquires.

30
31 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

32
33 Ms. Green represented the Department and presented the case to the Board. Allegations of the
34 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006) – Notwithstanding s.
35 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.
36 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this

June 1-2, 2012

DRAFT MEETING MINUTES

1 paragraph. Medical malpractice shall not be construed to require more than one instance, event,
2 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as
3 defined in s. 456.50. A person found by the board to have committed repeated medical
4 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to
5 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
6 construed to require that a physician be incompetent to practice medicine in order to be
7 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a
8 final order of the board finding a violation under this paragraph shall specify whether the
9 licensee was found to have committed “gross medical malpractice,” “repeated medical
10 malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the
11 board must so specify.

12
13 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

14
15 The Respondent agreed to waive attorney fees and costs.

16
17 A motion was made, seconded and carried unanimously to dismiss the Administrative
18 Complaint.

19
20 The Board asked that the expert witness in this case be referred to the Expert Witness
21 Committee.

22
23 **Action taken:** Administrative Complaint dismissed

24
25 **Ricardo Plaud, ACN, M.D., Casselberry, FL – Determination of Waiver24**

26 Dr. Plaud was not present nor was he represented by counsel.

27
28 Dr. Zachariah was recused due to participation on the probable cause panel.

29
30 Ms. Green represented the Department and presented the case to the Board. Allegations of the
31 Administrative Complaint: Violation of s. 458.331(1)(nn), FS (2010) – Violating any provision
32 of this chapter or chapter 456, or any rules adopted pursuant thereto.

33
34 A motion was made, seconded and carried unanimously to find the Respondent has waived his
35 right to a hearing.

June 1-2, 2012

DRAFT MEETING MINUTES

1 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

2
3 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

4
5 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
6 statutes as charged in the Administrative Complaint.

7
8 A motion was made, seconded and carried unanimously to revoke the Respondent's license.

9
10 A motion was made, seconded and carried unanimously to waive assessment of costs.

11
12 **Penalty imposed:** revocation, costs waived

13
14 **John Windham, P.A., Lake City, FL – Determination of Waiver25**

15 Mr. Windham was not present nor was he represented by counsel.

16
17 No present members were recused due to participation on the probable cause panel.

18
19 Ms. Green represented the Department and presented the case to the Board. Allegations of the
20 Administrative Complaint: Violation of s. s. 458.331(1)(k), FS (2010-2011) – Making deceptive,
21 untrue, or fraudulent representations in or related to the practice of medicine or employing a trick
22 or scheme in the practice of medicine; s. 458.331(1)(nn), FS (2010-2011) – Violating any
23 provision of this chapter or chapter 456, or any rules adopted pursuant thereto; s. 458.331(1)(r),
24 FS (2010-2011) – Prescribing, dispensing, or administering any medicinal drug appearing on any
25 schedule set forth in chapter 893 by the physician to himself or herself, except one prescribed,
26 dispensed, or administered to the physician by another practitioner authorized to prescribe,
27 dispense, or administer medicinal drugs; and s. 456.072(1)(hh), FS (2010-2011) – Being
28 terminated from a treatment program for impaired practitioners, which is overseen by an
29 impaired practitioner consultant as described in s. 456.076, for failure to comply, without good
30 cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for
31 not successfully completing any drug treatment or alcohol treatment program.

32
33 A motion was made, seconded and carried unanimously to find the Respondent has waived his
34 right to a hearing.

35
36 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

June 1-2, 2012

DRAFT MEETING MINUTES

1
2 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

3
4 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
5 statutes as charged in the Administrative Complaint.

6
7 A motion was made, seconded and carried unanimously to revoke the Respondent's license.

8
9 A motion was made, seconded and carried unanimously to waive assessment of costs.

10
11 **Penalty imposed:** revocation, costs waived

12
13 **Voluntary Relinquishments:**

14 **Robert L. Diaz, M.D., Palm Beach Gardens, FL28**

15 Dr. Diaz was not present nor was he represented by counsel.

16
17 No present members were recused due to participation on the probable cause panel.

18
19 Allegations of the Administrative Complaint: Violation of s. s. 456.072(1)(kk), FS (2011) -
20 Being terminated from the state Medicaid program pursuant to s. 409.913, any other state
21 Medicaid program, or the federal Medicare program, unless eligibility to participate in the
22 program from which the practitioner was terminated has been restored

23
24 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
25 of license.

26
27 **Penalty imposed:** license relinquished

28
29 **Carlos M. Barrera Valdivia, M.D., Miami, FL29**

30 Dr. Valdivia was not present nor was he represented by counsel.

31
32 Probably cause was waived in this case.

33
34 Allegations of the Administrative Complaint: Violation of s. s. 458.331(1)(c), FS – Being
35 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication,
36 a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to

June 1-2, 2012

DRAFT MEETING MINUTES

1 practice medicine; s. 458.331(1)(g), FS – Failing to perform any statutory or legal obligation
2 placed upon a licensed physician; and s. 458.331(1)(nn), FS – Violating any provision of this
3 chapter or chapter 456, or any rules adopted pursuant thereto.

4
5 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
6 of license.

7
8 **Penalty imposed:** license relinquished

9
10
11 **Brian W. Cook, M.D., Clearwater, FL30**

12 Dr. Cook was not present nor was he represented by counsel.

13
14 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

15
16 Allegations of the Administrative Complaint: Violation of s. 456.072(1)(v), FS (2008-2011) –
17 Engaging or attempting to engage in sexual misconduct as defined and prohibited in s.
18 456.063(1) and s. 458.331(1)(j), FS (2008-2011) – Aiding, assisting, procuring, employing, or
19 advising any unlicensed person or entity to practice a profession contrary to this chapter, the
20 chapter regulating the profession, or the rules of the department or the board.

21
22 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
23 of license.

24
25 **Penalty imposed:** license relinquished

26
27 **Jorge Carlos Suarez, N.C., Miami, FL31**

28 Mr. Suarez was not present nor was he represented by counsel.

29
30 Mr. Levine was recused due to participation on the probable cause panel.

31
32 Allegations of the Administrative Complaint: Violation of s. 468.518(1)(n), FS (2008) –
33 Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

34
35 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
36 of license.

June 1-2, 2012

DRAFT MEETING MINUTES

Penalty imposed: license relinquished

Raul A. Ramos, M.D., Belle Glade, FL32

Dr. Ramos was not present nor was he represented by counsel.

Dr. Nuss was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(w), FS (2009-2010) – Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them; s. 458.331(1)(nn), FS (2009-2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; and s. 458.331(1)(aa), FS (2009-2010 – Presigning blank prescription forms.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

Penalty imposed: license relinquished

Antonio J. Juan-Maza, M.D., Hollywood, FL33

Dr. Juan-Maza was not present nor was he represented by counsel.

No present members were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(nn), FS (2008) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; s. 458.331(1)(t), FS (2008) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A

June 1-2, 2012

DRAFT MEETING MINUTES

recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(q), FS (2008) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent; and s. 458.331(1)(m), FS (2008) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

Penalty imposed: license relinquished

Chirag N. Amin, M.D., Corona, CA.....52

Dr. Amin was not present nor was he represented by counsel.

Mr. Levine was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.313(1)(b), FS (2009) - Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license and s. 458.331(1)(kk), FS (2009) – Failing to report to the board,

June 1-2, 2012

DRAFT MEETING MINUTES

1 in writing, within 30 days if action as defined in paragraph (b) has been taken against one's
2 license to practice medicine in another state, territory, or country.

3
4 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
5 of license.

6
7 **Penalty imposed:** license relinquished

8
9 **Zenaida Amayao Reyes-Arguelles, M.D., Brooklyn, NY – Hearing Not Involving Disputed**
10 **Issues of Material Fact.....10**

11 Dr. Reyes-Arguelles was present and represented by Mark Furman, Esquire.

12
13 No present member was recused due to participation on the probable cause panel.

14
15 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
16 Administrative Complaint: Violation of s. 458.331(1)(b), FS (2010-2011) – Having a license or
17 the authority to practice medicine revoked, suspended, or otherwise acted against, including the
18 denial of licensure, by the licensing authority of any jurisdiction, including its agencies or
19 subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,
20 stipulation, consent order, or other settlement, offered in response to or in anticipation of the
21 filing of administrative charges against the physician's license, shall be construed as action
22 against the physician's license and s. 458.331(1)(kk), FS (2010-2011) – Failing to report to the
23 board, in writing, within 30 days if action as defined in paragraph (b) has been taken against
24 one's license to practice medicine in another state, territory, or country.

25
26 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

27
28 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

29
30 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
31 statutes as charged in the Administrative Complaint.

32
33 A motion was made, seconded and carried unanimously to suspend the Respondent's licensed
34 until all licenses are clear, letter of concern, \$2,500 fine and the Laws and Rules course.

35
36 A motion was made, seconded and carried unanimously to waive costs in this case.

June 1-2, 2012

DRAFT MEETING MINUTES

Penalty imposed: suspended until all licenses are clear, letter of concern, \$2,500 fine and the Laws and Rules course

John T. Legowik, M.D., Kissimmee, FL – Settlement Agreement51

Dr. Legowik was present with two individuals assisting Dr. Legowik with his hearing.

Dr. Zachariah was recused due to participation on the probable cause panel.

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(q), FS (2006) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent; s. 458.331(1)(m), FS (2006) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

June 1-2, 2012

DRAFT MEETING MINUTES

1
2 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

3
4 A motion was made and seconded to impose the same terms in the original agreement but to
5 increase the fine to \$30,000 and to require him to surrender his DEA license. The motion carried
6 unanimously.

7
8 After discussion, a motion was made and seconded to reconsider the previous action. The
9 motion carried 6-4.

10
11 A motion was made and seconded to revoke the Respondent's license. The motion failed 2-8.

12
13 A motion was made and seconded to impose the same terms in the original agreement but to
14 increase the fine to \$30,000 and to require him to surrender his DEA license.

15
16 An amendment was offered to strike the portion of the monitoring that requires review of all
17 cases involving acute chronic pain. This amendment was accepted.

18
19 The motion carried unanimously.

20
21 The Respondent took seven days to accept or reject the counter offer.

22
23 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$30,000 fine,
24 costs, Laws and Rules course, 5 hours CME in risk management, probation for three years with
25 indirect supervision, 50% chart review, consult with monitor on all pain related cases, quarterly
26 reports from monitor, report from respondent), surrender DEA license

27
28 **Cesar Augusto DeLeon, M.D., Boynton Beach, FL – Determination of Waiver**
29 **..... 53 & 55**

30 Dr. DeLeon was not present nor was he represented by counsel.

31
32 Dr. Orr was recused in both cases due to participation on the probable cause panel.

33
34 Mr. Milne represented the Department and presented the case to the Board. Allegations of the
35 Administrative Complaints: Violation of s. 456.072(1)(c), FS (2011) – Being convicted or found

June 1-2, 2012

DRAFT MEETING MINUTES

1 guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in
2 any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession
3

4 A motion was made, seconded and carried unanimously to find the Respondent waived his right
5 to a hearing.
6

7 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.
8

9 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.
10

11 A motion was made, seconded and carried unanimously to revoke the Respondent's license.
12

13 A motion was made, seconded and carried unanimously to waive assessment of costs in this
14 case.
15

16 **Penalty imposed:** revoked, costs waived
17

18 **Charles Kenneth Graff, M.D., Bonita Springs, FL – Hearing Not Involving Disputed Issues**
19 **of Material Fact.....56**

20 Dr. Graff was not present nor was he represented by counsel.
21

22 Dr. Stringer was recused due to participation on the probable cause panel.
23

24 Ms. Green represented the Department and presented the case to the Board. Allegations of the
25 Administrative Complaint: Violation of s. 458.331(1)(nn), FS (2010) – Violating any provision
26 of this chapter or chapter 456, or any rules adopted pursuant thereto
27

28 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.
29

30 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.
31

32 A motion was made, seconded and carried unanimously to impose a \$1,000 fine, the Laws and
33 Rules course and required to comply with delinquent CME.
34

35 A motion was made, seconded and carried unanimously to waive assessment of costs in this
36 case.

June 1-2, 2012

DRAFT MEETING MINUTES

1
2 **Penalty imposed:** \$1,000 fine, the Laws and Rules course, required to comply with delinquent
3 CME

4
5 **Tara Carolyn Levy, E.O., Saint Petersburg, FL – Voluntary Relinquishment57**

6 Ms. Levy was not present nor was she represented by counsel.

7
8 Dr. Nuss was recused due to participation on the probable cause panel.

9
10 Allegations of the Administrative Complaint: Violation of s. s. 478.52(1)(v), FS (2008-2009) –
11 Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

12
13 A motion was made, seconded and carried unanimously to accept the Voluntary relinquishment
14 of license.

15
16 **Penalty imposed:** license relinquished

17
18 **Lawrence Alan Mishlove, M.D., Panama City Beach, FL – Recommended Order .60**

19 Dr. Mishlove was present but not represented by counsel.

20
21 No current members were recused due to participation on the probable cause panel. Dr.
22 Rosenberg confirmed all participating members had read the complete record.

23
24 Ms. Green represented the Department and presented the case to the Board. Allegations of the
25 Administrative Complaint: Violation of s. s. 456.072(1)(hh), FS (2009) – Being terminated from
26 a treatment program for impaired practitioners, which is overseen by an impaired practitioner
27 consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of
28 the monitoring or treatment contract entered into by the licensee, or for not successfully
29 completing any drug treatment or alcohol treatment program and s. 458.331(1)(s), FS (2009) –
30 Being unable to practice medicine with reasonable skill and safety to patients by reason of illness
31 or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any
32 mental or physical condition.

33
34 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

35
36 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

June 1-2, 2012

DRAFT MEETING MINUTES

1
2 A motion was made, seconded and carried unanimously to adopt the Recommended Order.

3
4 A motion was made, seconded and carried unanimously to address the assessment of costs until a
5 later date.

6
7 **Penalty imposed:** suspended until appears and demonstrates his ability to practice with
8 reasonable skill and safety; if reinstated, probation for five years with terms to be set at that time

9
10 **Final Order Compliance Issues:**

11 **Jorge Valido, M.D. – Motion for Reconsideration.....58**

12 Dr. Valido withdrew his motion prior to the meeting.

13
14 **Grace Valente Guastella, M.D. – Request to Lift Restriction.....59**

15 Dr. Guastella withdrew her motion prior to the meeting.

16
17 **Enock Joseph, M.D. – Petition for Reinstatement.....62**

18 Dr. Joseph was present but not represented by counsel.

19
20 A motion was made, seconded and carried unanimously to deny his petition for reinstatement
21 because he has failed to comply with the terms of the Final Order.

22
23 **Action taken:** petition denied

24
25 **Terease Estelle Kwiatkowski, M.D. – Request for Reconsideration.....63**

26 This matter was withdrawn by Dr. Kwiatkowski prior to the meeting.

27
28 **Action taken:** none necessary

29
30 **Robin Lynn Ortman, P.A. – Petition to Withdraw Voluntary Agreement to Withdraw from**
31 **Practice.....64**

32 This matter was withdrawn from the agenda prior to the meeting.

33
34 **Action taken:** none necessary

35
36 **Board Director's Remarks:**

June 1-2, 2012

DRAFT MEETING MINUTES

2014 Board of Medicine Meeting Dates49

A motion was made, seconded and carried unanimously to approve the proposed 2014 dates.

Action taken: dates approved

2013 Legislative Proposals

Ms. Tootled reviewed the Board's 2012 legislative proposals:

1. CME proposal that would allow specific requirements for CME be set by the Board in rule in lieu of statute.
2. CE on Domestic Violence proposal would change the current requirement to complete this course every six years.
3. Increase fine caps proposal which would increase fines in certain offenses to \$25,000
4. Streamlining the licensure process proposal
Increase fee cap – Ms. Tootle recommended the Board not move forward with this portion of the proposal because the Board is this board is projected to have sufficient cash balances due to efficiencies in technology that will be realized in the next year or so.

A motion was made, seconded and carried unanimously to go forward with these proposals for 2013.

Action taken: 2013 legislative proposals set

Department Remarks:No tab

Ms. Donnelly addressed the Board and brought them up to date on activities in the Prosecution Services Unit.

Council on Physician Assistants:No tab

Dr. Winchester provided the report for the meeting held May 31, 2012.

A motion was made, seconded and carried unanimously to approve the report.

Action taken: report approved

Federation of State Medical Boards (FSMB) ReportNo tab

Peabody Orlando
9801 International Drive
Orlando, FL 32819
(407) 352-4000

June 1-2, 2012

DRAFT MEETING MINUTES

1 Dr. Orr provided a report on the FSMB Annual Meeting and an update on a conference call
2 related to National licensure legislation proposed by the FSMB. He presented the Board with a
3 plaque from the FSMB to the Board for serving the public interest and protecting the health of all
4 Florida citizens.

5
6 A motion was made, seconded and carried unanimously to approve the report.

7
8 **Action taken:** report approved
9

10 **Discussion Items:..... Addendum**

11 **Editorial Board Review Process for Articles**

12 Dr. Orr advised the Board that Mr. Tellechea and Ms. Tootle's comments are needed when
13 members draft articles for publication. He asked the editorial board to be sensitive to deadlines
14 and suggested the Board continue to develop this process. He also suggested each member reach
15 out to their respective specialty societies and hospital systems.

16
17 Dr. Rosenberg acknowledged Dr. Orr's comments. He thanked Ms. Goesch, the
18 Communication, Education and Communication Committee and Ms. Sanford for working
19 together to get the Board's information out.

20
21 **Action taken:** none
22

23 **Meeting Date/Location for October 2012.....65**

24 The Board discussed moving the meeting date currently set for the October 2012 meeting to
25 October 12-13, 2012.

26
27 A motion was made, seconded and carried unanimously to approve holding the meeting October
28 12-13, 2012.

29
30 **Action taken:** date moved to October 12-13, 2012
31

32 **Quarterly Citation ReportNo tab**

33 This report was accepted for information only.
34

35 **Committee Reports:**

36 **Surgical Care/Quality Assurance CommitteeNo tab**

June 1-2, 2012

DRAFT MEETING MINUTES

1 Dr. Orr provided the report for the meeting held May 31, 2012.

2
3 A motion was made, seconded and carried unanimously to approve the report.

4
5 **Action taken:** report approved

6
7 **Credentials Committee Meeting**

8 Dr. Nuss provided the report for the meeting held May 31, 2012.

9
10 A motion was made, seconded and carried unanimously to approve the report.

11
12 **Action taken:** report approved

13
14 **Rules/Legislative Committee Meeting**

15 Mr. Tellechea explained the Rules/Legislative Committee Meeting scheduled for May 31, 2012
16 had to be cancelled due to quorum issues. He explained there was an issue that needed to be
17 addressed by the Board before the Committee meets again.

18
19 Mr. Tellechea explained the Board is required to undergo a Rules Review every year and to
20 present a Regulatory Plan to the Governor's Office by July 1, 2012. He asked for permission for
21 him to work with the Chairman of the Board in developing this list to ensure the Board meets the
22 deadline and the final plan would be presented to the Board at the next meeting.

23
24 A motion was made, seconded and carried unanimously to delegate authority to Dr. Rosenberg to
25 approve the draft Regulatory Plan and to present the plan to the Board at the August meeting.

26
27 **Action taken:** authority delegated to Dr. Rosenberg to approve the draft Regulatory Plan and for
28 staff to present the plan to the Board at the August meeting

29
30 **Communication, Education and Information Committee**

31 The meeting scheduled for May 31, 2012 was cancelled by the Committee Chair prior to the
32 meeting.

33
34 **Finance & Process Accountability Committee**

35 The meeting scheduled for May 31, 2012 was cancelled by the Committee Chair prior to the
36 meeting.

Florida Board of Medicine

**Peabody Orlando
9801 International Drive
Orlando, FL 32819
(407) 352-4000**

June 1-2, 2012

DRAFT MEETING MINUTES

Approval of Meeting Minutes:

April 13-14, 2012 Meeting No tab

A motion was made, seconded and carried unanimously to approve the minutes as written.

Action taken: minutes approved

Ratification of Applicants Pursuant to Chapter 458, FS.....50

A motion was made, seconded and carried unanimously to ratify the licenses.

Action taken: licenses ratified

The meeting adjourned at 3:37 pm.

June 1-2, 2012

DRAFT MEETING MINUTES

Saturday, June 2, 2012

8:00 a.m. ROLL CALL

Members Present:

Jason J. Rosenberg, M.D., Chairman
Z.P. Zachariah, M.D., Vice- Chairman
Nabil El Sanadi, M.D., 1st Vice-Chairman
Merle P. Stringer, M.D.
Magdalena Averhoff, M.D.
Robert Nuss, M.D.
James Orr, M.D.
Gary Winchester, M.D.
Bradley Levine, Consumer Member
George Thomas, M.D.

Staff Present:

Joy A. Tootle, JD, Executive Director
Ed Tellechea, Esq, Board Counsel
Donna McNulty, Esq, Board Counsel
Nancy Murphy, Paralegal
Crystal Sanford, CPM, Program Operations Administrator
Chandra Prine, Program Operations Administrator
Rebecca Hewett, Administrative Assistant I
Shaila Washington, Compliance Officer
Jessica Hammonds, Public Information Officer
Ashley Carr, Public Information Officer

Prosecuting Attorneys Present:

Veronica Donnelly, Esq.
Diane Kiesling, Esq.
Yolonda Green, Esq.
Sharmin Hibbert, Esq.
Robert Milne, Esq.
Carl Gregg, Esq.

Disciplinary Case Schedule Continued:

Members Absent:

Fred Bearison, M.D.
Onelia Lage, M.D.
Donald Mullins, Consumer Member
Brigitte Goersch, Consumer Member
Elisabeth Tucker, M.D.

Others Present:

American Court Reporting

Judy Rivenbark, M.D., Director
Practitioners Resource Network

June 1-2, 2012

DRAFT MEETING MINUTES

Stephen Mark Kadet, M.D., Parkland, FL – Settlement Agreement3

No present members were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(b), FS (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician’s license, shall be construed as action against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one’s license to practice medicine in another state, territory, or country.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

Penalty imposed: letter of concern, \$2,500 fine, costs, Laws and Rules course, 5 hours CME in risk management

Elizabeth Elaine Neel, M.D., Callaway, FL – Settlement Agreement36

Mr. Levine was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2008) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify and s. 458.331(1)(m), FS (2008) – Failing to keep legible, as

June 1-2, 2012

DRAFT MEETING MINUTES

1 defined by department rule in consultation with the board, medical records that identify the
2 licensed physician or the physician extender and supervising physician by name and professional
3 title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic
4 or treatment procedure and that justify the course of treatment of the patient, including, but not
5 limited to, patient histories; examination results; test results; records of drugs prescribed,
6 dispensed, or administered; and reports of consultations and hospitalizations.

7
8 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

9
10 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in urological conditions, 5
11 hours CME in risk management

12
13 **Michael Craig Solomon, M.D., Fort Pierce, FL – Settlement Agreement40**

14 Dr. Stringer was recused due to participation on the probable cause panel.

15
16 Allegations of the Administrative Complaint: Violation of s. 456.072(1)(bb), FS (2008) –
17 Performing or attempting to perform health care services on the wrong patient, a wrong-site
18 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
19 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the
20 purposes of this paragraph, performing or attempting to perform health care services includes the
21 preparation of the patient.

22
23 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

24
25 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, lecture

26
27 **Sadhana Ashok Shah, M.D., Palm Harbor, FL – Settlement Agreement41**

28 No present members were recused due to participation on the probable cause panel.

29
30 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006) –
31 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
32 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
33 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
34 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
35 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
36 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be

June 1-2, 2012

DRAFT MEETING MINUTES

1 licensed by this state to provide health care services as a medical doctor in this state. Nothing in
2 this paragraph shall be construed to require that a physician be incompetent to practice medicine
3 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
4 law judge or a final order of the board finding a violation under this paragraph shall specify
5 whether the licensee was found to have committed “gross medical malpractice,” “repeated
6 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
7 by the board must so specify and s. 458.331(1)(aa), FS (2006) – Presigning blank prescription
8 forms.

9
10 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

11
12 **Penalty imposed:** letter of concern, \$5,000 fine, costs, Laws and Rules course

13
14 **Alfred Otero, P.A., Fort White, FL – Settlement Agreement42**

15 Dr. Orr and Mr. Levine were recused due to participation on the probable cause panel.

16
17 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(nn), FS (2010) –
18 Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto and
19 s. 458.331(1)(k), FS (2010) – Making deceptive, untrue, or fraudulent representations in or
20 related to the practice of medicine or employing a trick or scheme in the practice of medicine.

21
22 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

23
24 **Penalty imposed:** letter of concern, \$1,500 fine, costs, 5 hours CME in risk management

25
26 **Nelly Durr Chambers, M.D., Tampa, FL – Settlement Agreement43**

27 Mr. Levine was recused due to participation on the probable cause panel.

28
29 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2005-2007) –
30 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
31 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
32 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
33 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
34 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
35 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be
36 licensed by this state to provide health care services as a medical doctor in this state. Nothing in

June 1-2, 2012

DRAFT MEETING MINUTES

1 this paragraph shall be construed to require that a physician be incompetent to practice medicine
2 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
3 law judge or a final order of the board finding a violation under this paragraph shall specify
4 whether the licensee was found to have committed “gross medical malpractice,” “repeated
5 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
6 by the board must so specify and s. 458.331(1)(m), FS (2005-2007) – Failing to keep legible, as
7 defined by department rule in consultation with the board, medical records that identify the
8 licensed physician or the physician extender and supervising physician by name and professional
9 title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic
10 or treatment procedure and that justify the course of treatment of the patient, including, but not
11 limited to, patient histories; examination results; test results; records of drugs prescribed,
12 dispensed, or administered; and reports of consultations and hospitalizations.

13
14 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

15
16 **Penalty imposed:** letter of concern, \$6,000 fine, costs, FMA records course, 5 hours CME in
17 general dermatology care and/or treatment

18
19 **Karen Elizabeth Jenkins, M.D., Davie, FL – Settlement Agreement44**

20 Dr. Nuss was recused due to participation on the probable cause panel.

21
22 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2008) –
23 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
24 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
25 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
26 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
27 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
28 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be
29 licensed by this state to provide health care services as a medical doctor in this state. Nothing in
30 this paragraph shall be construed to require that a physician be incompetent to practice medicine
31 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
32 law judge or a final order of the board finding a violation under this paragraph shall specify
33 whether the licensee was found to have committed “gross medical malpractice,” “repeated
34 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
35 by the board must so specify.
36

June 1-2, 2012

DRAFT MEETING MINUTES

1
2 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

3
4 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, 5
5 hours CME in identification and diagnosis of gastrointestinal conditions

6
7 **Mark Antonio Borden, M.D., Tampa, FL – Settlement Agreement46**

8 Mr. Levine was recused due to participation on the probable cause panel.

9
10 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2007) –
11 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
12 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
13 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
14 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
15 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
16 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be
17 licensed by this state to provide health care services as a medical doctor in this state. Nothing in
18 this paragraph shall be construed to require that a physician be incompetent to practice medicine
19 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
20 law judge or a final order of the board finding a violation under this paragraph shall specify
21 whether the licensee was found to have committed “gross medical malpractice,” “repeated
22 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
23 by the board must so specify.

24
25 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

26
27 **Penalty imposed:** letter of concern, \$7,500 fine, costs, 5 hours CME in emergency pediatric
28 conditions, 5 hours CME in risk management

29
30 **David Mitchell Kenton, M.D., Deerfield Beach, FL – Settlement Agreement48**

31 Dr. J. Rosenberg was recused due to participation on the probable cause panel.

32
33 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2009) –
34 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
35 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
36 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require

June 1-2, 2012

DRAFT MEETING MINUTES

1 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
2 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
3 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be
4 licensed by this state to provide health care services as a medical doctor in this state. Nothing in
5 this paragraph shall be construed to require that a physician be incompetent to practice medicine
6 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
7 law judge or a final order of the board finding a violation under this paragraph shall specify
8 whether the licensee was found to have committed “gross medical malpractice,” “repeated
9 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
10 by the board must so specify.

11
12 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

13
14 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management

15
16 **Robert Burger, M.D., Lake Worth, FL – Settlement Agreement22**

17 Mr. Levine was recused due to participation on the probable cause panel.

18
19 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2009) –
20 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
21 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
22 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
23 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
24 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
25 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be
26 licensed by this state to provide health care services as a medical doctor in this state. Nothing in
27 this paragraph shall be construed to require that a physician be incompetent to practice medicine
28 in order to be disciplined pursuant to this paragraph. A recommended order by an administrative
29 law judge or a final order of the board finding a violation under this paragraph shall specify
30 whether the licensee was found to have committed “gross medical malpractice,” “repeated
31 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication
32 by the board must so specify; s. 458.331(1)(m), FS (2010) – Failing to keep legible, as defined
33 by department rule in consultation with the board, medical records that identify the licensed
34 physician or the physician extender and supervising physician by name and professional title
35 who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or
36 treatment procedure and that justify the course of treatment of the patient, including, but not

June 1-2, 2012

DRAFT MEETING MINUTES

1 limited to, patient histories; examination results; test results; records of drugs prescribed,
2 dispensed, or administered; and reports of consultations and hospitalizations; and s.
3 458.331(1)(q), FS (2010) – Prescribing, dispensing, administering, mixing, or otherwise
4 preparing a legend drug, including any controlled substance, other than in the course of the
5 physician’s professional practice. For the purposes of this paragraph, it shall be legally presumed
6 that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs,
7 including all controlled substances, inappropriately or in excessive or inappropriate quantities is
8 not in the best interest of the patient and is not in the course of the physician’s professional
9 practice, without regard to his or her intent.

10
11 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

12
13 **Penalty imposed:** letter of concern, \$5,000 fine, costs, UF drug course, 5 hours CME in risk
14 management

15
16 **Thomas James Rodenberg, M.D., Knoxville, TN – Settlement Agreement34**

17 Dr. Rosenberg was present and represented by William Furlow, Esquire.

18
19 No present members were recused due to participation on the probable cause panel.

20
21 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
22 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2007, 2008) – Notwithstanding s.
23 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.
24 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this
25 paragraph. Medical malpractice shall not be construed to require more than one instance, event,
26 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as
27 defined in s. 456.50. A person found by the board to have committed repeated medical
28 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to
29 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
30 construed to require that a physician be incompetent to practice medicine in order to be
31 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a
32 final order of the board finding a violation under this paragraph shall specify whether the
33 licensee was found to have committed “gross medical malpractice,” “repeated medical
34 malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the
35 board must so specify; s. 458.331(1)(k), FS (2008) – Making deceptive, untrue, or fraudulent
36 representations in or related to the practice of medicine or employing a trick or scheme in the

June 1-2, 2012

DRAFT MEETING MINUTES

1 practice of medicine; and s. 458.331(1)(m), FS (2007,2008) – Failing to keep legible, as defined
2 by department rule in consultation with the board, medical records that identify the licensed
3 physician or the physician extender and supervising physician by name and professional title
4 who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or
5 treatment procedure and that justify the course of treatment of the patient, including, but not
6 limited to, patient histories; examination results; test results; records of drugs prescribed,
7 dispensed, or administered; and reports of consultations and hospitalizations.

8
9 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

10
11 A motion was made and seconded to offer a counter proposal to impose a reprimand, \$40,000
12 fine, a six-month suspension while he undergoes a UF CARES evaluation, the Board reserves
13 jurisdiction to impose additional terms depending on recommendations of the evaluation, the
14 FMA medical records course and five hours CME in risk management.

15
16 An amendment was offered to revise the suspension language to say he is suspended until he
17 undergoes the UF CARES evaluation and documents compliance with the recommendations; at a
18 minimum the suspension will be for six months; and he must appear before the Probationers
19 Committee for reinstatement at which time the Committee can impose additional terms as
20 warranted by the evaluation. This amendment was accepted.

21
22 Another amendment was offered to make the fine and costs due within six months of
23 reinstatement. This amendment was also accepted.

24
25 The Respondent took seven days to accept or reject the counter offer.

26
27 **Action taken:** Settlement Agreement rejected; counter to impose s reprimand, \$40,000 fine,
28 FMA medical records course, five hours CME in risk management, suspended until he
29 undergoes the UF CARES evaluation and documents compliance with the recommendations; at a
30 minimum the suspension will be for six months; and he must appear before the Probationers
31 Committee for reinstatement at which time the Committee can impose additional terms as
32 warranted by the evaluation

33
34 **Malcolm Colburn Foster, M.D., New Port Richey, FL – Settlement Agreement35**
35 Dr. Foster was present and represented by Jeffrey S. Howell, Esquire.

June 1-2, 2012

DRAFT MEETING MINUTES

1 Dr. El Sanadi was recused due to participation on the probable cause panel.

2
3 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
4 Administrative Complaint: Violation of s. 458.331(1)(j), FS (2007-2008) - Exercising influence
5 within a patient-physician relationship for purposes of engaging a patient in sexual activity. A
6 patient shall be presumed to be incapable of giving free, full, and informed consent to sexual
7 activity with his or her physician.

8
9 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

10
11 A motion was made and seconded to offer a counter proposal to impose the same terms in the
12 original agreement but to eliminate paragraph b(1) of the Settlement Agreement and replace it
13 with language that suspends the Respondent's license until he undergoes a PRN evaluation and
14 the Board retains jurisdiction to impose additional terms.

15
16 The Respondent took seven days to accept or reject the counter offer.

17
18 **Action taken:** Settlement Agreement rejected; counter offer to impose a reprimand, \$10,000
19 fine, costs, Laws and Rules course, suspension until undergoes PRN evaluation and compliance,
20 Board retains jurisdiction to impose additional terms, restriction – shall not treat female pts
21 without Florida licensed health care practitioner present in the room

22
23 **Mark Steven Cukierman, M.D., Boca Raton, FL – Settlement Agreement37**

24 Dr. Cukierman was present and represented by Karen Schapira, Esquire.

25
26 No present members were recused due to participation on the probable cause panel.

27
28 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
29 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2008-2009) – Notwithstanding s.
30 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.
31 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this
32 paragraph. Medical malpractice shall not be construed to require more than one instance, event,
33 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as
34 defined in s. 456.50. A person found by the board to have committed repeated medical
35 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to
36 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be

June 1-2, 2012

DRAFT MEETING MINUTES

1 construed to require that a physician be incompetent to practice medicine in order to be
2 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a
3 final order of the board finding a violation under this paragraph shall specify whether the
4 licensee was found to have committed “gross medical malpractice,” “repeated medical
5 malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the
6 board must so specify; s. 458.331(1)(m), FS (2008-2009) – Failing to keep legible, as defined by
7 department rule in consultation with the board, medical records that identify the licensed
8 physician or the physician extender and supervising physician by name and professional title
9 who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or
10 treatment procedure and that justify the course of treatment of the patient, including, but not
11 limited to, patient histories; examination results; test results; records of drugs prescribed,
12 dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(q),
13 FS (2008-2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a
14 legend drug, including any controlled substance, other than in the course of the physician's
15 professional practice. For the purposes of this paragraph, it shall be legally presumed that
16 prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including
17 all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the
18 best interest of the patient and is not in the course of the physician's professional practice,
19 without regard to his or her intent; and s. 458.331(1)(nn), FS (2008-2009) – Violating any
20 provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

21
22 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

23
24 A motion was made and seconded to offer a counter to impose the same terms in the original
25 agreement but to impose a reprimand in lieu of the letter of concern.

26
27 An amendment was offered to impose a three month suspension. This amendment was rejected.

28
29 A motion was made and seconded to impose a three month suspension. The motion failed 2-8.

30
31 The counter motion carried with one opposed.

32
33 The Respondent took seven days to accept or reject the counter offer.

34
35 **Action taken:** Settlement Agreement rejected; counter offer to impose a reprimand, \$50,000
36 fine, costs, UF drug course, FMA records course, 5 hours CME in risk management

June 1-2, 2012

DRAFT MEETING MINUTES

Lewis G. Maharam, M.D., New York, NY – Settlement Agreement38

Dr. Maharam was present but not represented by counsel.

No present members were recused due to participation on the probable cause panel.

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(b), FS (2011) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician’s license, shall be construed as action against the physician’s license and s. 458.331(1)(kk), FS (2011) – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one’s license to practice medicine in another state, territory, or country.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

Penalty imposed: letter of concern, \$3,000 fine, costs, Laws and Rules course

Monique Michelle Barbour, M.D., Lake Worth, FL – Settlement Agreement45

Dr. Barbour was present and represented by Alex D. Barker, Esquire.

Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2010) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be

June 1-2, 2012

DRAFT MEETING MINUTES

1 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a
2 final order of the board finding a violation under this paragraph shall specify whether the
3 licensee was found to have committed “gross medical malpractice,” “repeated medical
4 malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the
5 board must so specify; s. 458.331(1)(m), FS (2010) – Failing to keep legible, as defined by
6 department rule in consultation with the board, medical records that identify the licensed
7 physician or the physician extender and supervising physician by name and professional title
8 who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or
9 treatment procedure and that justify the course of treatment of the patient, including, but not
10 limited to, patient histories; examination results; test results; records of drugs prescribed,
11 dispensed, or administered; and reports of consultations and hospitalizations; s. 456.072(1)(bb),
12 FS (2010) – Performing or attempting to perform health care services on the wrong patient, a
13 wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is
14 medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For
15 the purposes of this paragraph, performing or attempting to perform health care services includes
16 the preparation of the patient.

17
18 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.
19

20 **Penalty imposed:** letter of concern, \$5,000 fine, costs, FMA records course, 5 hours CME in
21 risk management, 5 hours CME in assessment, diagnosis and treatment of cataracts
22

23 **David Mitchell Kenton, M.D., Deerfield Beach, FL – Settlement Agreement47**

24 Dr. Kenton was present and represented by Elizabeth Perez, Esquire.
25

26 Dr. Zachariah was recused due to participation on the probable cause panel.
27

28 Mr. Milne represented the Department and presented the case to the Board. Allegations of the
29 Administrative Complaint: Violation of s. 458.331(1)(c), FS (2010) – Being convicted or found
30 guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any
31 jurisdiction which directly relates to the practice of medicine or to the ability to practice
32 medicine
33

34 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.
35

June 1-2, 2012

DRAFT MEETING MINUTES

Penalty imposed: reprimand, \$10,000 fine, costs, UF drug course, Laws and Rules course, 5 hours CME in risk management, 1-year stayed suspension, probation for 2 years with indirect supervision, 25% chart review, quarterly reports from monitor and probationer, appearances

Petition for Waiver or Variance:

Terence R. Mahoney, M.D.61

Dr. Mahoney was present but not represented by counsel. He was requesting a waiver or variance of Rule 64B8-9.0131, FAC – Training requirements for physicians practicing in pain-management clinics. He explained that he recently completed 40+ hours of CME and plans to take an FMA course in pain-management scheduled for June 29th. He said these activities would allow him to meet the requirements of the rule and withdrew his request.

Action taken: petition withdrawn by petitioner

Petitions for Declaratory Statements:

Final Order on Timothy Hipp, M.D. RE: s. 458.347, FS27

Dr. Hipp was present but not represented by counsel.

Mr. Tellechea explained the Board addressed this petition at the last meeting and the draft Final Order was in the agenda materials for the Board's review and approval.

A motion was made, seconded and carried unanimously to approve the draft Final Order.

Action taken: draft Final Order approved

Board Chair's Remarks:No tab

Dr. Rosenberg asked the Board staff to look at the October and December agendas to determine if Saturday can be eliminated from the meeting. He explained the request increase efficiency while decreasing costs assuming there are not enough cases to warrant a Saturday meeting.

A motion was made, seconded and carried unanimously to ask staff to remove Saturday from the October and December meetings if there are not enough cases to warrant meeting on Saturday too.

Action taken: October and December meetings – remove Saturday if there are not enough cases for both dates.

Peabody Orlando
9801 International Drive
Orlando, FL 32819
(407) 352-4000

June 1-2, 2012

DRAFT MEETING MINUTES

New Business:

Mr. Levine asked if the topic of the usage of Lortab, a Schedule II controlled substance, at next meeting.

Ms. Tootle asked the members to leave their laptops and accessories along with the bag so the staff could take them back for additional work. She apologized for the problems that occurred at this meeting.

Board Counsel's Remarks:.....No tab

Mr. Tellechea explained that since Ms. Donnelly said there were 28 cases pending at the Division of Administrative Hearings, he would be sending additional instructions for how to handle Recommended Orders. He asked the members to call him if they had any questions.

Dr. Zachariah asked that the expert witness used in the case against Dr. Barbour be referred to the Expert Witness Committee. He wants to know if there was an issue or not in this case.

The meeting adjourned at 9:50 am.